

Louisiana Property and Casualty Insurance Commission

Making Louisiana Competitive *The Path to Available and Affordable Insurance*



Annual Report
2002-2003

Louisiana Department of Insurance

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Executive Summary

In 1997, the Louisiana Legislature created the Council on Automobile Insurance Rates and Enforcement (C.A.I.R.E.) to undertake a comprehensive study and provide oversight and recommendations aimed at enforcement of those laws and programs that affect automobile insurance rates. C.A.I.R.E. researched and studied many ideas that have been beneficial in the area of lowering automobile insurance rates, including, but not limited to, the impoundment law, “No Pay, No Play,” stronger penalties for DWI, graduated licensing, automobile insurance checkpoints, and insurance fraud.

Due to C.A.I.R.E.’s thorough studies of law enforcement and the automobile insurance situation in the state, the 2001 Louisiana Legislature expanded C.A.I.R.E.’s realm of study to include not only automobile insurance, but also homeowners insurance and workers compensation insurance, thus forming the Louisiana Property and Casualty Insurance Commission (Act Number 187 in the 2001 Regular Session, R.S. 22:15). The Louisiana Property and Casualty Insurance Commission, which consists of three ad hoc committees (Automobile Insurance Ad Hoc Committee, Homeowners Insurance Ad Hoc Committee and Workers Compensation Ad Hoc Committee) has been given the task of reviewing and examining the availability and affordability of property and casualty insurance in the state of Louisiana.

Over the past year, the Commission has met monthly in order to thoroughly discuss those issues that are affecting the property and casualty insurance market in our state. The Commission has opened its doors to not only the insurance industry, but also to other state agencies, special interest groups and the Louisiana Insurance Rating Commission, so that all avenues could be fully explored and addressed. As a result of this collaborated effort, a list of legislative recommendations has been compiled.

In this report, the Louisiana Property and Casualty Insurance Commission addresses highway safety problems, along with industry related issues. It is this commission’s hope that by passing laws related to these recommendations, lives would be saved, along with improving what some are calling a near failing homeowners insurance market.

Summary of Recommendations

- Outlaw open alcohol containers for passengers
- Require that 2nd time DWI convicted offender install an ignition interlock device in their vehicle, at their expense, for one year
- Prohibit pretrial diversion for DWI's
- Repeal Odinet bill, which lessens the penalty for repeat DWI offenders
- Require seat belt usage for all passengers
- Base child safety seat/booster seat usage on years/weight
- Restrict persons under the age of 21 from entering bars
- Reenact the mandatory motorcycle helmet law
- Create a system for maintaining records for the number of vehicles impounded for not having proper proof of insurance
- Lower the jury trial threshold limit
- Establish a tracking system for DWI arrests
- Modify the LIRC to a Flex Band System
- Repeal the direct action insurance statute
- Extend the 30-day time period allotted to insurers to pay their assessments to the FAIR Plan
- Modify the cancellation law



A Message From Acting Commissioner of Insurance J. Robert Wooley

The Louisiana Property and Casualty Insurance Commission's annual report for 2002-2003 focuses on increasing the amount of competition in the property and casualty insurance market in Louisiana. The fact that Louisiana has fewer insurance companies doing business in the state is one reason that our citizens are paying more for insurance than the rest of the country.

A number of homeowners insurance companies are no longer accepting new business or withdrawing from the state all together due to their assessment of our loss potential. We are seeing a similar trend beginning to occur in the automobile insurance market. There are many other reasons why policyholders in Louisiana are paying higher premiums, but the lack of competition was a major concern of this commission in the past year.

Over the course of the past year, the Louisiana Property and Casualty Insurance Commission and the Department of Insurance worked closely to open the lines of communication between the department and the insurance industry. By doing so, it was hoped that changes could be made to Louisiana laws to attract more companies, and to possibly bring back some of the companies that have recently left our state. In an effort to increase competition, I have been successful in attracting new homeowners insurers to Louisiana and will continue to meet with more companies, but some changes will have to be made to our laws to aid this effort.

This annual report is a collaborated effort between the commission, the Department of Insurance, and the insurance industry. Recommendations made in this report not only address the competition problem in the state, but also highway safety issues, as they are a driving force for our high automobile premiums.

The latest figures available from the National Association of Insurance Commissioners (NAIC) show Louisiana ranks in the top 10 among states having the highest auto insurance rates in the country. Numerous factors are to blame, including drunk drivers and poor road conditions throughout the state.

Continued and more stringent enforcement of Louisiana's auto laws should have a positive impact by leading to fewer accidents and lower insurance rates. Reducing alcohol-related crashes in our state by just 10 % would lead to a \$60 million savings for policyholders.

Rising medical and indemnity costs are leading to an increase in claims costs in the workers' compensation arena. But the frequency of workers' comp claims is declining and Louisiana's workers' comp market is more stable than other property and casualty insurance markets in the state. Due to this very fact, the commission decided to leave well enough alone by not making any recommendations, but did give a summary of the state of the market in this report.

The Louisiana Property and Casualty Insurance Commission and the panel's ad hoc committees meet regularly to discuss various P&C issues. We invite you to visit our meetings and take part in these discussions as we continue to study the insurance laws that impact our citizens and the insurance industry.



J. Robert Wooley
Acting Commissioner of Insurance



Louisiana Property and Casualty Insurance Commission

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As Chairman of the Louisiana Property and Casualty Insurance Commission (LPCIC), I am honored to present the 2002-2003 Annual Report. This commission is a blue ribbon panel that has met ten times in the past year, without pay. LPCIC is composed of members of the Legislature, designees from the governor, superintendent of state police, assistant secretary of the Louisiana Department of Public Safety and Corrections, attorney general, president of the Louisiana Association of Chief's of Police, president of the Louisiana District Attorneys Association, Louisiana Sheriff's Association, and chairperson of the Louisiana Insurance Rating Commission, along with representatives of the Independent Insurance Agents of Louisiana, Professional Insurance Agents of Louisiana, Property Insurance Association of Louisiana, Louisiana Workers' Compensation Corporation, Department of Labor and consumers.

Our main focus this year was to discover different options to help Louisiana's property and casualty insurance market become more competitive. We recognize the fact that a more competitive market fosters lower insurance rates. This commission is extremely committed to the betterment of this state, and has worked hard to bring you these recommendations.

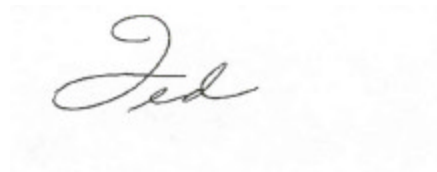
Over the past year, the commission has taken aggressive measures to bring all ideas to one central location. In May, we surveyed homeowners insurance companies that are writing or have written business in Louisiana in the past 10 years. The survey asked them a variety of questions, but the main focus was on improvements that Louisiana can make to bring more companies to the state and to make sure that the ones that are still writing here, remain here.

In September, we asked the homeowners insurance industry for their help again. With the support of acting Commissioner Wooley, the Louisiana Department of Insurance issued Directive 170. This directive asked those same

companies to be as specific, and frank as possible in their assessments of the regulatory and legislative problems in Louisiana. As a result, the lines of communication have opened between the industry and the department. This open communication has brought into focus the problems that companies are having as they conduct business in state of Louisiana.

Some of the issues addressed by the industry cannot be corrected, such as location, but others can be. This Annual Report addresses those issues and gives the commission's recommendations as to how, in its opinion, to resolve these problems.

Actions taken on these recommendations could help Louisiana become a more attractive marketplace for its consumers, potential insurers and existing insurers.

A handwritten signature in cursive script, appearing to read "Ted", is centered within a light gray rectangular box.

Theodore "Ted" M. Haik, Jr.
Chairman



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The Professional Insurance Agents of Louisiana consider it a privilege to have a representative sit as Vice-Chairman of the Property and Casualty Insurance Commission for the State of Louisiana. We appreciate the opportunity.

As Vice-Chairman, I consider the package of recommendations before you as an extremely positive step in making insurance for the citizens of Louisiana not only available but also affordable. These measures will not make things happen over night, but will pave the way for stability in the market place.

The Commission's goals from these recommendations are to:

- Save lives and reduce the severity of injuries, thereby;
- Reducing the number of claims and reducing the impact of those that do occur, thereby;
- Reducing the abnormally high claims costs, thereby;
- Making sure premiums are adequate for the carriers, thereby;
- Ensuring a profit for those carriers, thereby;
- Making Louisiana a more attractive place to do business for carriers, thereby;
- Increasing competition for those profitable policy holders, thereby;
- Stabilizing rates and making sure our citizens are properly protected!

Sincerely,

Richard A. Clements, CIC
Vice Chairperson P&C Commission
President – Professional Insurance Agents of Louisiana

Louisiana Property and Casualty Insurance Commission

J. Robert Wooley

Acting Commissioner of Insurance

Theodore “Ted” M. Haik

Chairman - Full Commission

Consumer Representative

House of Representatives

Richard A. Clements

Vice-Chairman - Full Commission

Professional Insurance Agents of Louisiana

The Honorable Dan Morrish

Chairman – Automobile Insurance Ad Hoc Committee

Louisiana House of Representatives

House Insurance Committee

Col. Jim Champagne

Vice Chairman – Automobile Insurance

Ad Hoc Committee

Executive Director

Louisiana Highway Safety Commission

Jeff Albright

Chairman – Homeowners Insurance

Ad Hoc Committee

Executive Vice President

Independent Insurance Agents of Louisiana

Terry Lisotta

Vice-Chairman – Homeowners Insurance

Ad Hoc Committee

Property Insurance Association of Louisiana

Rodney Braxton

Chairman-Workers Compensation

Ad Hoc Committee

Office of the Governor

Dan Boudreaux

Vice Chairman –Workers’

Compensation Ad Hoc Committee

Assistant Secretary/Director

Office of Workers Compensation

Louisiana Department of Labor

Chad Brown

Louisiana Insurance Rating

Commission Representative

The Honorable Donald Cravins

Louisiana Senate

Senate Committee on Insurance

The Honorable Max Malone

Louisiana Senate

Senate Committee on Insurance

The Honorable Greg Champagne

Sheriff, St. Charles Parish

Louisiana Sheriffs Association

Representative

Tom O’Neal

Consumer Representative

Louisiana Senate

The Honorable Shirley Bowler
Louisiana House of Representatives
House Insurance Committee

Lt. Col. John LeBlanc
Louisiana State Police Representative

Cassandra Simms
Deputy Director
Public Protection Division
Department of Justice
Attorney General's Representative

The Honorable Earl Taylor
District Attorneys Association
Representative

Cecile Bush
Louisiana Department of Public
Safety
Office of Motor Vehicles

Aubrey T. Temple, Jr.
Chairman of LWCC Board of
Directors

Louisiana Property and Casualty Insurance Commission Staff:

Molly M. Quirk
Director

Terrell Moss
Research Analyst



Louisiana Revised Statute 22:15

Section 15: Louisiana Property and Casualty Insurance Commission

A. (1) The legislature hereby creates the Louisiana Property and Casualty Commission within the Louisiana Department of Insurance. The functions, duties, and responsibilities of the commission shall be to review and examine the availability and affordability of property and casualty insurance in the state of Louisiana. Further, the commission shall undertake a comprehensive study and provide oversight and enforcement recommendations of the effectiveness of law enforcement and implementation of programs aimed at enforcement throughout the state of those laws and programs which affect automobile insurance rates.

(2) The commission shall be domiciled in the city of Baton Rouge and its members shall serve for terms of two years beginning July 1, 2001.

B. (1) The commission shall consist of the following members:

- (a) The governor or his designee.
- (b) The superintendent of state police or his designee.
- (c) The assistant secretary of the Louisiana Department of Public Safety and Corrections, office of motor vehicles, or his designee.
- (d) The attorney general or his designee.

- (e) The president of the Louisiana Association of Chiefs of Police or his designee.
- (f) The president of the Louisiana District Attorneys Association or his designee.
- (g) The president of the Louisiana Sheriff's Association or his designee.
- (h) The chairperson of the Louisiana Insurance Rating Commission or his designee.
- (i) Two members of the House Committee on Insurance selected by its chairman.
- (j) Two members of the Senate Committee on Insurance selected by its chairman.
- (k) One consumer representative selected by the speaker of the House of Representatives.
- (l) One consumer representative selected by the president of the Senate.
- (m) A representative of the Independent Insurance Agents of Louisiana.
- (n) A representative of the Professional Insurance Agents of Louisiana.
- (o) The executive director of the Louisiana Highway Safety Commission.
- (p) A representative of the Property Insurance Association of Louisiana appointed by its governing committee.
- (q) A representative of the Louisiana Workers' Compensation Corporation appointed by its board of directors.
- (r) A representative of the Department of Labor, office of workers' compensation, appointed by the secretary of labor.
- (s) The commissioner of insurance or his designee.

(2) The commission shall consist of ad hoc committees to study property and casualty insurance, including but not limited to the areas of automobile insurance,

homeowners insurance, and workers' compensation insurance. The commissioner of insurance shall appoint a chairperson and a vice chairperson for the commission and a chairperson and vice chairperson for each ad hoc committee.

- (a) The automobile insurance ad hoc committee shall consist of the following members:
- (i) The commissioner of insurance or his designee.
 - (ii) The governor or his designee.
 - (iii) The superintendent of state police or his designee.
 - (iv) The assistant secretary of the Louisiana Department of Public Safety and Corrections, office of motor vehicles, or his designee.
 - (v) The attorney general or his designee.
 - (vi) The president of the Louisiana Association of Chiefs of Police or his designee.
 - (vii) The president of the Louisiana Sheriff's Association or his designee.
 - (viii) The president of the Louisiana District Attorney's Association or his designee.
 - (ix) The executive director of the Louisiana Highway Safety Commission.
 - (x) Two members of the Senate Committee on Insurance selected by its chairman.
 - (xi) Two members of the House Committee on Insurance selected by its chairman.
 - (xii) One consumer representative selected by the speaker of the House of Representatives.
 - (xiii) One consumer representative selected by the president of the Senate.

- (xiv) A representative of the Independent Insurance Agents of Louisiana.
- (xv) A representative of the Professional Insurance Agents of Louisiana.
- (xvi) A member of the Louisiana Insurance Rating Commission.

- (b) The homeowners ad hoc committee shall consist of the following members:
- (i) The governor or his designee.
 - (ii) The commissioner of insurance or his designee.
 - (iii) Two members of the Senate Committee on Insurance selected by its chairman.
 - (iv) Two members of the House Committee on Insurance selected by its chairman.
 - (v) A representative of the Independent Insurance Agents of Louisiana.
 - (vi) A representative of the Professional Insurance Agents of Louisiana.
 - (vii) A member of the Louisiana Insurance Rating Commission.
 - (viii) One consumer representative selected by the speaker of the House of Representatives.
 - (ix) One consumer representative selected by the president of the Senate.
 - (x) A representative of the Property Insurance Association of Louisiana appointed by it governing committee.

- (c) The workers' compensation insurance ad hoc committee shall consist of the following members:
- (i) The governor or his designee.
 - (ii) The commissioner of insurance or his designee.

- (iii) Two members of the Senate Committee on Insurance selected by its chairman.
 - (iv) Two members of the House Committee on Insurance selected by its chairman.
 - (v) A representative of the Independent Insurance Agents of Louisiana.
 - (vi) A representative of the Professional Insurance Agents of Louisiana.
 - (vii) A member of the Louisiana Insurance Rating Commission.
 - (viii) One consumer representative selected by the speaker of the House of Representatives.
 - (ix) One consumer representative selected by the president of the Senate.
 - (x) A representative of the Louisiana Workers' Compensation Corporation appointed by its board of directors.
 - (xi) A representative of the Department of Labor, office of workers' compensation, appointed by the secretary of labor.
- (3) The members of the commission shall serve without compensation, and their terms shall be for two years.
 - (4) Any vacancies on the commission shall be filled in the same manner as the original appointments for the unexpired portion of the term of the vacated appointment.
 - (5) A majority of the members of the commission shall constitute a quorum for the transaction of business of the ad hoc committee. A majority of the members of an ad hoc committee

shall constitute a quorum for the transaction of business of the ad hoc committee. All official actions of the commission or any ad hoc committee shall require the affirmative vote of a majority of the members of the commission or ad hoc committee present and voting during meetings of the commission or ad hoc committee. The commission shall meet twice annually in any one calendar year and the ad hoc committees may meet on the call of the chairperson of the commission or of the ad hoc committee, or upon the request of any three members of the ad hoc committee.

C. (1) The commission shall submit to the governor, the Louisiana Legislature, and the commissioner of insurance on an annual basis prior to the convening of each regular legislative session an annual report on their actions, studies, findings, and recommendations of those laws and projects affecting property and casualty insurance.

(2)(a) The commission shall conduct all meetings and hearings, in accordance with R.S. 42:4.1 et seq., to receive testimony about that information it is charged with gathering. The commission shall also be permitted to receive further information and testimony from regional and national experts on insurance rating issues. The commission shall study ways to give incentives to those communities that have a greater enforcement rate over laws that directly or indirectly affect insurance rates in that community and state.

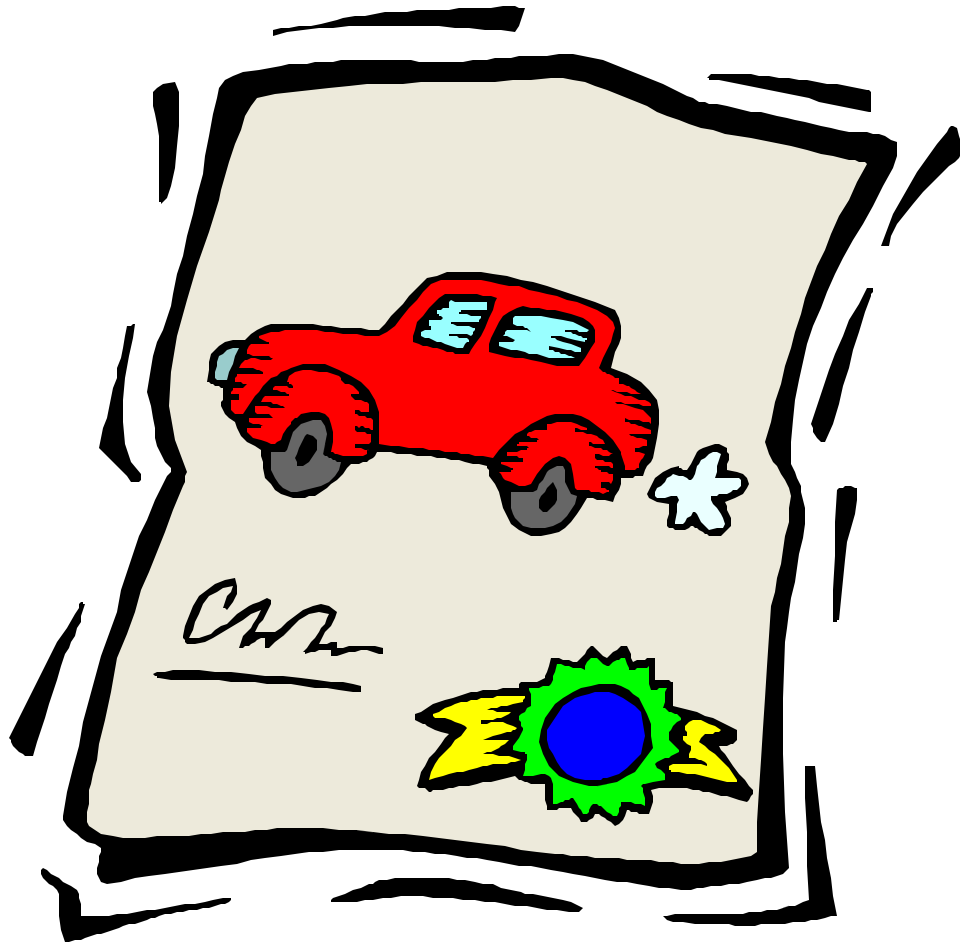
(b) All state and local agencies and political subdivisions shall cooperate with the commission and assist it in the gathering of information when requested.

All materials in the possession or control of the commission or its employees shall be considered public records pursuant to R.S. 44:1 et seq.

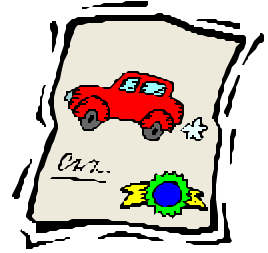
D. The commissioner of insurance shall appoint a director and an assistant necessary to carry out the provisions of this Section and may establish the compensation of technical, professional, and clerical employees as needed for the commission to accomplish its work. Any such employee shall be compensated from the budget of the commissioner. All of the employees of the commission shall be under the direction and supervision of the commissioner of insurance.

director with the consent of the Senate who shall serve at the pleasure of the commissioner. The commissioner of insurance may also employ such persons, including two unclassified employees, as

Driving in Louisiana
The Automobile Insurance Market

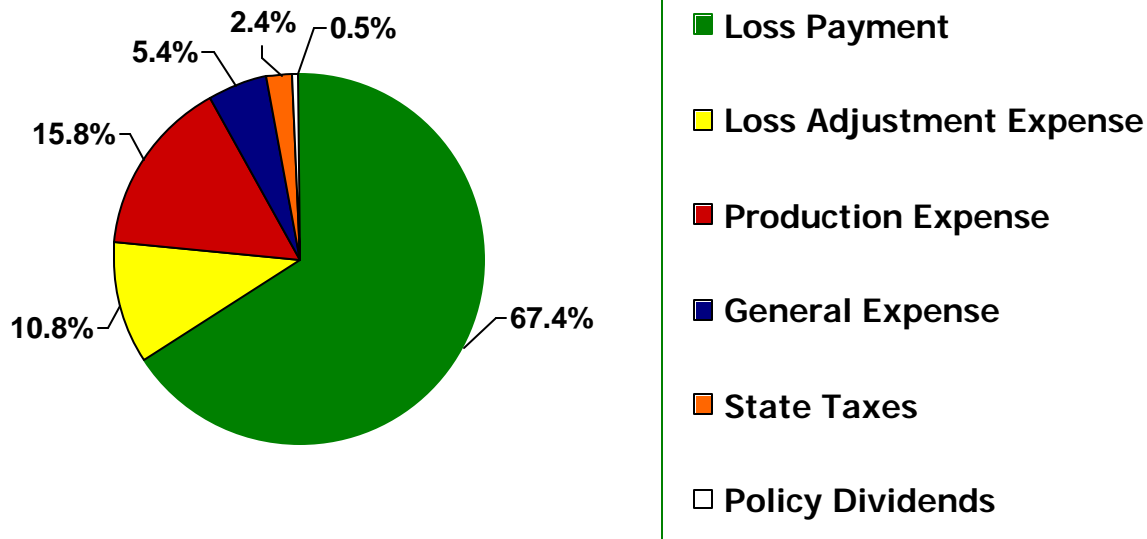


The Automobile Insurance Market In Louisiana



Louisiana is making some progress with the automobile insurance premium costs. We were ranked 8th in 2000 for having an average combined premium of \$928.48, compared to the national average of \$785.80, according to the National Association of Insurance Commissioners (NAIC). In 1999, Louisiana was ranked 6th for having an average combined premium of \$944.40. Not only is our ranking decreasing, but also our premium costs.

Where did \$1 of premium go in 2001? *Private Passenger Physical Damage*



How Louisiana's Automobile Insurance Premiums Measure Up

State	Rank *	Average Combined Premium
New Jersey	1	\$1,146.39
District of Columbia	2	\$1,143.71
New York	3	\$1,091.43
Massachusetts	4	\$1,028.62
Rhode Island	5	\$972.01
Connecticut	6	\$953.77
Nevada	7	\$937.54
Louisiana	8	\$928.48
Delaware	9	\$927.30
Alaska	10	\$912.78
Colorado	11	\$881.74
Arizona	12	\$876.38
Michigan	13	\$843.72
New Mexico	14	\$828.33
Maryland	15	\$828.22
West Virginia	16	\$815.10
Hawaii	17	\$811.50
Georgia	18	\$810.23
Washington	19	\$803.76
Florida	20	\$798.59
Pennsylvania	21	\$775.85
Mississippi	22	\$770.22
California	23	\$765.20
Minnesota	24	\$762.84
Texas	25	\$759.45
Oklahoma	26	\$736.17
Kentucky	27	\$733.75

Illinois	28	\$725.95
South Carolina	29	\$725.03
Arkansas	30	\$721.84
Alabama	31	\$718.16
Utah	32	\$718.03
New Hampshire	33	\$713.15
Missouri	34	\$709.59
Oregon	35	\$704.55
Kansas	36	\$688.76
Tennessee	37	\$687.09
Montana	38	\$671.57
North Carolina	39	\$670.35
Indiana	40	\$657.68
Virginia	41	\$650.84
Nebraska	42	\$649.45
Vermont	43	\$647.65
Wyoming	44	\$646.27
Ohio	45	\$645.79
South Dakota	46	\$618.88
Wisconsin	47	\$613.81
Idaho	48	\$608.70
North Dakota	49	\$601.32
Maine	50	\$599.88
Iowa	51	\$557.67
Countrywide		\$785.80
* Ranked by "Average Combined Premium"		
Average premiums are based on 2000 data (the most recent available). Source: Reproduced with permission from the National Association of Insurance Commissioners.		

Child safety seat/booster seat usage

The current Louisiana law on child safety restraints requires every resident of this state who transports a child or children under the age of thirteen years in a motor vehicle which is equipped with safety belts shall have the child properly secured in accordance with the manufacturer's instructions in an age- or size-appropriate restraint system which meets the applicable federal motor vehicle safety standards in effect.

The Louisiana **SAFE KIDS** Coalition Child Safety Seat check up survey results from 1998 through 2001 found that almost all children secured by the vehicle safety belt system did not fit properly in the belts because they were too small and should have been in booster seats.

62 Restraints Checked – 9 with no misuse – 85% misused

Vehicle Safety Belt	# Wrong/ # Belts	Percent Misused
Lap belt does not fit correctly	16/20	80
Shoulder belt does not fit correctly	15/20	75
Child's knees do not reach edge of seat (slouching)	9/18	50
Child's back not against vehicle seat back	4/13	31

All 50 states and the District of Columbia have child restraint laws that are primary with the exception of Colorado and Nebraska. The age at which belts can be used instead of child restraints varies among the states. Safety belt laws or child restraint laws or both, should cover all infants and all children in all vehicles all the time. However, the differences in wording of the laws have resulted in many occupants, especially children, not being covered by either law. Legislators are eliminating these gaps by amending their child restraint and safety belt laws.

NHTSA's Guidelines

Proper Child Safety Seat Use Chart

	Infants	Toddler	Young Children
<u>Weight</u>	Birth to 1 year- at least 20-22 lbs.	Over 1 year and Over 20 lbs.- 40 lbs.	Over 40 lbs. Ages 4-8, unless 4'9".
<u>Type of Seat</u>	Infant only or rear facing convertible	Convertible/Forward facing	Belt positioning booster seat
<u>Seat Position</u>	Rear-facing only	Forward-facing	Forward facing
<u>Always Make Sure:</u>	Children to one year and at least 20 lbs. in rear-facing seats. Harness straps at or below shoulder level.	Harness straps should be at or above shoulders. Most seats require top slot for forward facing.	Belt positioning booster seats must be used with both lap and shoulder belt. Make sure the lap belt fits low and tight across the lap/upper thigh area and the shoulder belt fits snug crossing the chest and shoulder to avoid abdominal injuries.

All children age 12 and under should ride in the back seat.

The "booster seat" law has been adopted in Oregon, California and Washington. Even though Oregon's law only applies to children up to six years old and children up to sixty pounds, all children need to ride in a booster seat until the lap and shoulder belt fits correctly.

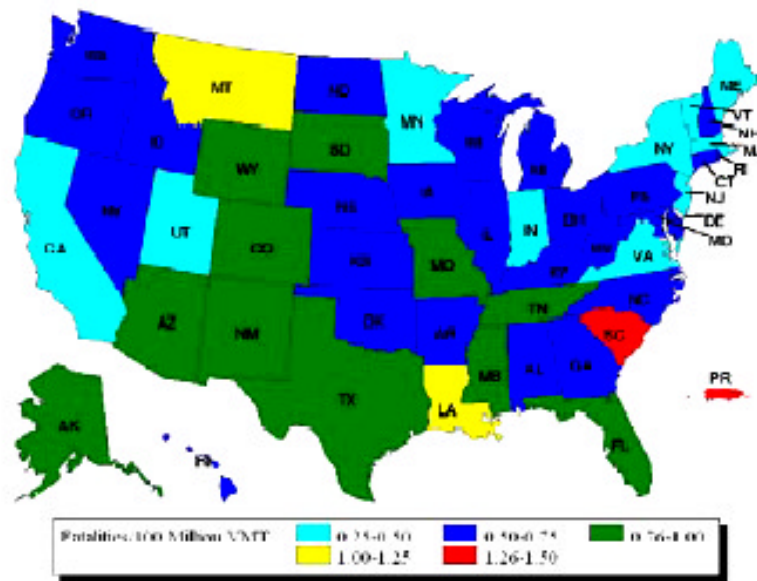
Recommendation

The Louisiana Property and Casualty Insurance Commission recommends that Louisiana adopt the NHTSA guidelines for child safety seat/booster seat usage based on years/weight.

Drunk Drivers

In 2001, according to the Louisiana Highway Safety Commission, there were 431 alcohol-related fatalities in our state. This accounts for 45.3% of the total number of fatal accidents in Louisiana last year, compared to the national average of 39.8%. Although the drinking age in Louisiana is 21, thirty-nine of the drivers that were involved in a fatal, alcohol-related crash were between the ages of 15 to 20 years of age. The average alcohol-related fatality costs nearly \$3 million dollars in Louisiana. Not only did drunk drivers take the lives of 431 people, but also cost this state a little over \$1.2 billion, which accounts for approximately 10% of Louisiana's automobile insurance payment.

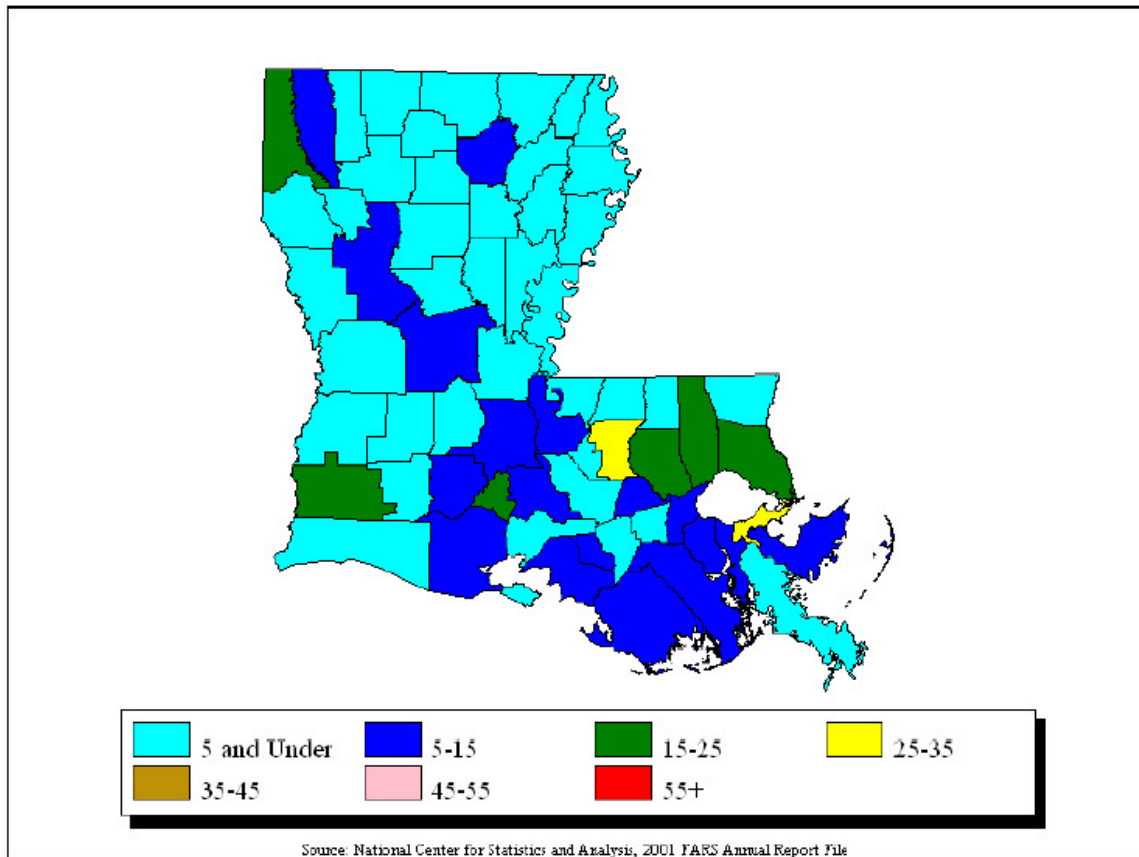
How does Louisiana measure up to other states on the U.S.?



Source: National Center for Statistics and Analysis, 2001 FARS Annual Report File

According to NHTSA, Louisiana is ranked 2nd for having the most alcohol related fatalities in the United States.

Where were all the alcohol-related fatalities in Louisiana in 2001?



Recommendations

- Establish a tracking system for DWI arrests.
- Restrict persons under the age of 21 from entering bars.

Repeat Offenders

Approximately 25 percent of DWI offenders in Louisiana are repeat offenders. Repeat offenders are people who choose to drink and drive again and again. Their attitude is not changed by information or education and many are not deterred by enforcement or punishment. According to studies conducted by the Fatal Accident Reporting System (FARS), a driver with a prior DWI conviction has a greater chance of being involved in a fatal crash and is more likely to cause a fatal crash.

Why do repeat offenders continue to drink and drive?

The most popular response given by a repeat offender when asked why they were driving under the influence was that they thought that they were “okay” to drive, according to a study conducted for the National Highway Traffic Safety Administration (NHTSA) by the Mid-American Research Institute. The same study reported that the second most popular response was that the person “just did not think about it.” Other responses included loss of control of him/herself after drinking, that no one was available to drive, and that if he/she were careful, it would be okay.

A large percentage of the participants in the NHTSA study did not think that they were endangering lives when they choose to drink and drive. This seems to be the overall consensus of repeat offenders.

How do we stop repeat offenders?

Studies tell us that fines, jail time and loss of license seem to be the consequences that are feared most by repeat offenders. In the NHTSA study, repeat offenders’ top five suggestions were: jail time, self-discipline, educational programs, self-help programs such as Alcoholics Anonymous and therapy/treatment/rehabilitation.

Section 164 of 23 U. S. C.

Section 164 of 23 U. S. C. requires that States have certain repeat offender laws or a portion of the State’s Federal-aid Highway Construction Funds will be redirected into the State’s Highway Safety Program to be used for

alcohol-impaired driving countermeasures, or for enforcement of drunk driving laws.

So far, Louisiana had \$4.3 million diverted in 2000 and again in 2001. In 2002, Louisiana did not meet Federal standards again and was forced to transfer \$9 million in highway funds. This \$9 million transfer will continue until we meet the Federal mandate.

The following States and the District of Columbia are in compliance with Section 164: Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Idaho, Iowa, Kansas, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington and Wisconsin.

In order to meet the Federal mandate and avoid the transfer of Highway Funds, State's repeat DWI offender laws must meet the following criteria as it relates to second and subsequent convictions:

- 1) Require a minimum one-year driver's license suspension for repeat DWI offenders.
- 2) Require that all motor vehicles of repeat offenders be impounded or immobilized for the specified time that the license has been suspended, or require the installation of an ignition interlock system on all motor vehicles of such drivers for a specified period after the suspension is completed.
- 3) Require mandatory assessment of repeat intoxicated drivers' degree of alcohol abuse and referral to treatment as appropriate.
- 4) Establish a mandatory minimum sentence for repeat intoxicated drivers of not less than five days imprisonment or thirty days community service; or not less than 10 days of imprisonment or 60 days community service for the third or subsequent offenses.

How does Louisiana manage its repeat offenders?

During the 2001 Regular Session, Act 1163 was passed, which lessens the actual jail time of third and fourth time offenders. This Act requires a third time offender to serve thirty days in jail without probation or parole, whereas the old law made it mandatory for these offenders to serve no less than six months without probation or parole. Third time offenders are also required to undergo an evaluation and to stay at least four weeks, but no more than six weeks, in an inpatient treatment facility. Once released from the treatment facility, the offender will serve the remaining time sentenced to home incarceration. On a fourth offense, Act 1163 requires the offender to serve only sixty days in jail without probation or parole. The old law required them to serve a two-year jail sentence. The fourth time offender is also required to stay in an inpatient facility and has the benefit of home incarceration.

Recommendations

- Require that second time DWI convicted offenders install an ignition interlock device in their vehicle, at their expense, for one year. By doing so, we will be stopping these repeat offenders from driving under the influence of alcohol.
- Repeal Act 1163, which lessens jail time for repeat offenders.
- Prohibit pretrial diversion for repeat DWI offenders.

Motorcycle Helmet Use

The current law in Louisiana states that no person under the age of eighteen years shall operate or ride upon any motorcycle, motor driven cycle, or motorized bicycle unless the person is equipped with and is wearing on the head a safety helmet of the type and design manufactured for use by operators of such vehicles, which shall be secured properly with a chin strap while the vehicle is in motion. Any person eighteen years of age or older who chooses not to wear a helmet shall be covered by a health insurance policy with medical benefits of at least 10 thousand dollars for bodily injuries and shall furnish proof of such policy to any law enforcement officer upon the request of such officer.

Motorcycle Fatalities Before and After 1999 Helmet Law

Time Period	Number of Fatalities	Without Helmets	Percentages
August 1997- July 1998	25	8	
August 1998- July 1999	34	7	
Totals	59	15	15%
<i>Repealed August 15, 1999</i>			
August 1999- July 2000	56	35	
August 2000- July 2001	48	29	
Totals	104	64	62%

According to a study conducted by the Louisiana Highway Safety Commission, observed helmet usage in Louisiana dropped from 96.7 percent in 1999 to 51.8 percent in 2000 and then again to 51.7 percent in 2001. The helmet usage estimate for Louisiana in 2002 is 46.4 percent for motorcycle drivers and passengers. Nationally, the helmet usage percentage dropped from 71 percent to 58 percent from the Fall of 2000 to the Summer of 2002, as states begin to repeal or modify helmet laws.

NHTSA Key Facts

- Head injury is a leading cause of death in motorcycle crashes.
- NHTSA estimates that motorcycle helmets reduce the likelihood of a crash fatality by 29 percent.
- The Crash Outcome Data Evaluation System (CODES) study found that motorcycle helmets are 67 percent effective in preventing brain injuries.
- An un-helmeted motorcyclist is 40 percent more likely to suffer a fatal head injury and 15 percent more likely to suffer a nonfatal injury than a helmeted motorcyclist when involved in a crash.
- From 1984 through 2001, NHTSA estimates that helmets saved the lives of 10,830 motorcyclists. If all motorcyclists and passengers had worn helmets during this period, it is estimated an additional 8,276 lives could have been saved.

Cost Impact

Data from three states with universal helmet laws showed that without the helmet law, the total in-patient charges due to brain injury would have been almost doubled from \$2,325,000 to \$4,095,000. This analysis of linked data was conducted by CODES. It was also noted that brain injury cases were more than twice as costly as non-brain injury cases for a one-year period studied.

NHTSA estimates that motorcycle helmet use saved \$13.2 billion in economic costs from 1984 to 1999. An additional \$11.1 billion would have been saved if all motorcyclists had worn helmets during the same period.

State Motorcycle Helmet Use Requirements October 2002

20 States, D.C. and P.R. Required Use For All Riders	27 States Require Use for a Specific Segment of Riders (Usually under 18)
Alabama, California, District of Columbia, Georgia, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New York, N. Carolina, Oregon, Pennsylvania, Puerto Rico, Tennessee, Vermont, Virginia, Washington, West Virginia. Not Required in 3 States: Colorado, Illinois, Iowa	Alaska, Arizona, Arkansas, Connecticut, Delaware, Florida, Hawaii, Idaho, Indiana, Kansas, Kentucky, Louisiana , Maine, Minnesota, Montana, New Hampshire, New Mexico, N. Dakota, Ohio, Oklahoma, Rhode Island, S. Carolina, S. Dakota, Texas, Utah, Wisconsin, Wyoming.

In 1997, several states diluted the universal helmet laws to mandate coverage to those under the age of 21. Louisiana was among this group. In 1999, the number of injuries increased by more than 48 percent in Louisiana. The injuries jumped from 741 in the last two years of all-rider helmet law to 1,101 in the year of 2000, with a modified helmet law. The average number of fatalities rose from 26 to 55 in the same time frame. The average fatality rate went from 4.5 percent in the two years before modification to 7.9 percent in the following year.

Motorcycle helmets have been shown to save lives and prevent serious brain injuries. Laws that require all riders to wear helmets are most effective just by mandating their use.

Recommendation

The Louisiana Property and Casualty Insurance Commission recommends that Louisiana adopt a mandatory motorcycle helmet law for all riders and passengers.

Impoundment Update

In 1997, the Louisiana Legislature passed a law that requires law enforcement officers to impound a vehicle whose driver cannot show proper proof of insurance. The only exceptions to the rule are if there are passengers in the vehicle under the age of twelve, if the driver or a passenger is handicapped, if the officer feels the location and time of day is not safe, or if the officer has a reasonable belief that the driver has insurance but cannot provide proof.

Although available figures show great enforcement of the law, there are still a large number of sheriff departments and municipalities that do not enforce the law. Another problem is that due to budget cuts, the Office of Motor Vehicles cannot maintain a running tally of cars that are impounded for not having proof of insurance. With problems such as these, the impoundment law will lose its effectiveness. What is the point of having such a law, as the impoundment law, if we are not allowed to see its effects or if law enforcement chooses not to enforce it?

Total Impounded Vehicles Louisiana <i>October 1998 – December 2000</i>	
STATE POLICE	7,837
SHERIFFS	6,004
CITY POLICE	18,097
TOTAL	31,938

Source: Louisiana Department of Public Safety

**Louisiana State Police
Impoundment Statistics
April 1, 2001 – March 31, 2002**

TROOP	NOTICE OF VIOLATION	VEHICLES TOWED	% OF VEHICLES TOWED
A (East and West Baton Rouge, Pointe Coupee, East and West Feliciana, Livingston, Ascension, Iberville, St. James)	794	325	41%
B (Orleans, St. Charles, St. John the Baptist, St. Bernard, Jefferson)	1355	371	27%
C (Assumption, Terrebone, Lafourche, St. James, St. John)	716	141	20%
D (Calcasieu, Cameron, Allen, Jefferson Davis, Beauregard)	586	207	35%
E (Winn, Lasalle, Grant, Sabine, Vernon, Rapides, Avoyelles, Catahoula, Concordia, Natchitoches)	526	232	44%
F (Union, East and West Carroll, Morehouse, Lincoln, Quachita, Richland, Madison, Jackson, Caldwell, Tensas, Franklin)	297	58	20%

G (Caddo, Bossier, Webster, Claiborne, Bienville, DeSoto, Red River)	573	277	48%
I (Evangeline, St. Landry, Acadia, Lafayette, St. Martin, Vermilion, Iberia, St. Mary)	660	431	65%
L (St. Helena, Tangipahoa, Washington, St. Tammany)	702	179	25%
<u>TOTALS</u>	6,209	2,221	36%

Source: Louisiana Department of Public Safety

Vehicles Impounded <i>Sheriffs</i> October 1998 — December 2000	
Acadia	2
Allen	5
Ascension	248
Assumption	28
Avoyelles	0
Beauregard	1
Bienville	1
Bossier	0
Caddo	51
Calcasieu	112
Caldwell	5
Cameron	0
Catahoula	4
Claiborne	9
Concordia	0
DeSoto	6
East Baton Rouge	707
East Carroll	1
East Feliciana	4
Evangeline	0
Franklin	0
Grant	19
Iberia	0
Iberville	37
Jackson	15
Jefferson	2,870

Jefferson Davis	2
Lafayette	114
Lafourche	83
LaSalle	1
Lincoln	6
Livingston	24
Madison	0
Morehouse	11
Natchitoches	0
Orleans	0
Ouachita	116
Plaquemines	123
Pointe Coupee	66
Rapides	2
Red River	2
Richland	0
Sabine	0
St. Bernard	331
St. Charles	194
St. Helena	0
St. James	122
St. John	164
St. Landry	1
St. Martin	62
St. Mary	7
St. Tammany	226
Tangipahoa	90
Tensas	0
Terrebonne	83
Union	0

Vermilion	3
Vernon	0
Washington	15
Webster	2
West Baton Rouge	29
West Carroll	0
West Feliciana	0
Winn	0
Total	6,004

Source: Louisiana Department of Public Safety

Impounded Vehicles
City Police
October 1998 – December 2000

Abbeville	64	Bogalusa	221
Abita Springs	2	Bonita	4
Addis	8	Bossier City	268
Albany	1	Boyce	0
Alexandria	101	Breaux Bridge	23
Amite	19	Broussard	22
Anacoco	1	Brusly	5
Angie	7	Bryceland	0
Arabi	1	Bunkie	10
Arcadia	0	Calhoun	0
Arnaudville	0	Calvin	0
Ashland	0	Cameron	0
Atchafalaya Basin	2	Cankton	0
Athens	0	Campti	0
Atlanta	0	Carencro	23
Baker	224	Castor	2
Baldwin	3	Causeway Police	99
Ball	6	Chalmette	1
Barksdale AFB	1	Chataignier	0
Basile	0	Chatham	4
Baskin	3	Cheneyville	1
Bastrop	159	Choudrant	0
Baton Rouge	4,088	Church Point	0
Belcher	0	Clarence	0
Bienville	0	Clarks	0
Benton	3	Clayton	0

Bernice	0	Clinton	15
Berwick	9	Colfax	1
Blanchard	3	Collinston	2
Columbia	0	Eros	0
Convent	0	Estherwood	0
Converse	0	Evergreen	0
Cotton Valley	0	Eunice	16
Cottonport	9	Farmerville	2
Coushatta	6	Fenton	0
Covington	86	Ferriday	14
Crescent City	798	Fisher	2
Crowley	25	Florien	0
Cullen	0	Folsom	0
Delcambre	28	Fordoché	0
Delhi	7	Forest	0
Delta	0	Forest Hill	0
Denham Springs	201	Fort Polk	1
Dequincy	10	Franklin	41
DeRidder	2	Franklinton	17
Dixie Inn	14	French Settlement	2
Dodson	0	Georgetown	0
Donaldsonville	0	Gibbsland	3
Downsville	0	Gilbert	0
Doyline	2	Gilliam	0
Dry Prong	0	Glenmora	0
Dubach	0	Golden Meadow	24
Dubberly	0	Goldonna	0
Duson	2	Gonzales	166
East Hodge	0	Grambling	1

East Jeff Levee	35	Gramercy	62
Edgard	0	Grand Cane	0
Edgefield	0	Grand Couteau	0
Elizabeth	0	Grand Isle	0
Elton	3	Grayson	0
Epps	0	Greensburg	19
Erath	12	Greenwood	5
Gretna	645	Junction City	0
Grosse Tete	0	Kaplan	8
Gueydan	0	Kenner	720
Hahnville	0	Kentwood	4
Hall Summit	0	Kilbourne	0
Hammond	209	Killian	0
Harahan	54	Kinder	0
Harbor Police	22	Krotz Springs	0
Harrisonburg	0	Lafayette	864
Harvey	2	Lake Arthur	18
Haughton	6	Lake Charles	521
Haynesville	1	Lake Providence	0
Heflin	0	LaPlace	0
Henderson	2	Leatchie	0
Hessmer	3	Lecompte	0
Hodge	8	Leesville	19
Holly Beach	0	Leonville	0
Homer	2	Lillie	0
Hornbeck	1	Lisbon	0
Hosston	0	Livingston	1
Houma	121	Livonia	26
Ida	0	Lockport	9

Independence	0	Logansport	1
Iota	1	Longstreet	0
Iowa	2	Loreauville	0
Jackson	86	Lucky	0
Jamestown	0	Lutcher	3
Jeanerette	3	Mandeville	63
Jean Lafitte	0	Madisonville	0
Jena	9	Mamou	0
Jennings	7	Mansfield	2
Jonesboro	22	Mansura	0
Jonesville	2	Mangham	3
Many	1	Norwood	0
Maringouin	0	Oak Grove	1
Marksville	16	Oak Ridge	0
Maurice	2	Oakdale	10
McNary	0	Oberlin	0
Mer Rouge	3	Oil City	5
Merryville	1	Olla	6
Metairie	2	Opelousas	84
Martin	0	Palmetto	2
Minden	3	Patterson	79
Melville	0	Pearl River	20
Mermentau	0	Parks	0
Monroe	1,177	Pineville	132
Montgomery	2	Pine Prairie	0
Montpelier	0	Pioneer	0
Mooringsport	0	Plain Dealing	0
Moreauville	1	Plaquemine	54
Morgan City	50	Plaucheville	0

Morganza	1	Pleasant Hill	0
Morse	0	Point A La Hache	0
Mound	0	Pollock	0
Mount Lebanon	0	Ponchatoula	96
Napoleonville	0	Port Allen	28
Natchez	0	Port Barre	12
Natchitoches	5	Port Vincent	8
New Iberia	262	Powhatan	0
New Llano	0	Provencal	0
N.O. City Park	1	Quitman	0
New Orleans Traffic	3,542	Rayne	0
New Roads	41	Rayville	3
Newellton	0	Reeves	0
Noble	0	Richmond	4
North Hodge	0	Richwood	16
Ridgecrest	0	Sterlington	2
Ringgold	1	Stonewall	0
Robeline	0	Sulphur	13
Rodessa	0	Sunset	2
Roseland	0	Sun	0
Rosepine	0	Tallulah	8
Ruston	32	Tangipahoa	0
Saline	0	Thibodaux	68
Sarepta	0	Tickfaw	43
Scott	187	Tullos	0
Shreveport	395	Turkey Creek	0
Shongaloo	0	Urania	0
Sibley	0	Varnado	0
Sicily Island	0	Vidalia	63

Sikes	0	Vienna	0
Simmesport	6	Ville Platte	1
Simpson	0	Vinton	0
Simsboro	0	Vivian	3
Slaughter	1	Walker	9
Slidell	306	Washington	0
Sorrento	17	Waterproof	0
South Mansfield	0	Welsh	5
Spearsville	0	West Lake	13
Springfield	8	West Monroe	62
Springhill	0	Westwego	323
St. Amant	0	White Castle	0
St. Bernard	0	Winnfield	17
St. Francisville	0	Wilson	2
St. Gabriel	10	Winnsboro	56
St. Joseph	0	Wisner	1
St. Martin	3	Woodworth	1
St. Martinville	27	Youngsville	11
Stanley	0	Zachary	27
Zwolle	0	McNeese	1
Baptist Christian	0	Metro Airport	2
Centenary College	0	N.O. Bapt Sem.	0
Delgado Comm.	0	Nicholls	0
Dillard University	0	UL of Monroe	14
DPS Capitol	30	Northwestern	0
EP Nunez Comm.	0	Our Lady Holy Cross	0
Grambling State U	5	St. Joseph Sem	0
Louisiana College	0	Southeastern	14
LSU-A	0	Southern U. B.R.	3

LSU-BR	102	Southern U. N.O.	0
LSU-Eunice	0	Southern U. Shrev.	0
LSU-Shreveport	0	Tulane University	0
LSU Med. N.O.	0	Tulane Medical	0
LSU Med. Shrev	2	Univ. of N.O.	0
La Tech Univ	2	USL (ULL)	36
Loyola University	0	Xavier University	0
		Total	18,097

Source: Louisiana Department of Public Safety

**Source for Baton Rouge City Impoundment Figures: Baton Rouge City Police*

Recommendation

Create a system for maintaining records for the number of vehicles impounded for not having proper proof of insurance.

Lowering the Jury Threshold

The current law in Louisiana allows a trial by jury only when a petitioner's cause of action exceeds fifty thousand dollars exclusive of interest and costs. When the damages are less than fifty thousand dollars, the defendant is not entitled to a trial by jury. This is an issue that has been debated for a number of years, and the threshold for a right to a jury has been raised by the Legislature several times in recent years.

Reduction of the jury threshold would allow defendants a choice in civil action brought against them. However, there is no guarantee that an adjustment of the current threshold will reduce awards or insurance costs.

Recommendation

The Louisiana Property and Casualty Insurance Commission recommends that the jury threshold be lowered.

Modify the Cancellation and Non-renewal Law

Many insurers doing business in the state have a difficult time managing their books of business in Louisiana because of our strict laws pertaining to the canceling and non-renewing of insurance policies. According to the Insurance Research Council, Louisiana has the 2nd highest number of bodily injury claims in the country, and the 7th highest number of property damage claims. The high number of claims in our state put a stress on insurance companies, especially because they are not able to easily manage their business, mainly bad business.

Recommendations

The commission recommends the following changes be made to Title 22, which is the Louisiana Insurance Code.

- 22:1466 (A) – Delete the portion that reads, “increase the rate, increase or add a surcharge.”
- 22:1466 (B) – Add this entire section, and let it read, “No insurer shall increase the rate, increase the surcharge or add a surcharge, on any policy of motor vehicle insurance when such action is based on consideration of one or more nonfault incidents unless the insured incurs three or more such nonfault incidents in a three year period.
- 22:636.1 (B) (2) – Delete the portion that reads, “not exceeding fifty dollars.”

Open Containers

According to NHTSA, an Open Container Law “prohibits the possession of any alcoholic beverage container and the consumption of any alcoholic beverage in the passenger area of a motor vehicle.”

In 1998, the Transportation Equity Act for the 21st Century Restoration (TEA-21) encouraged states to adopt open container law. According to TEA-21, states were to have an open container law in place by October 1, 2000. States without this law by October of 2000 had a portion of their federal aid highway construction funds redirected into other state safety activities beginning in fiscal year 2001.

Due to the fact that Louisiana did not adopt an Open Container Law by October 1, 2000, \$4.3 million in Federal Transportation funds were transferred from Roadway Construction and Maintenance into the Department of Transportation and Development's Hazard Elimination Fund. The same transfer occurred on October 1, 2001. On October 1, 2002, Louisiana experienced an even greater transfer of \$9 million of Federal Roadway Construction and Maintenance funds. This transfer will continue to occur until the state adopts a law that meets the Federal mandate.

In order to meet the Federal mandate, Louisiana must adopt a law that meets the following criteria:

- 1) Prohibit possession of an open alcoholic beverage container and the consumption of any alcoholic beverage in a motor vehicle.
- 2) Define the passenger area of any motor vehicle. By federal standards, "passenger area" is defined as the area designed to seat the driver and passengers while the motor vehicle is being operated and any area that is easily accessible to the driver or any passenger while seated in the motor vehicle. This includes the glove compartment.
- 3) Apply to all alcoholic beverages. "Alcoholic beverage" is to be defined as any type of alcoholic beverage, including beer, wine and distilled spirits that contains one-half of one percent or more of alcohol per volume. An "open alcoholic beverage container" is any bottle, can or other container that contains any amount of alcoholic beverage, and that is open or has a broken seal, or has contents that have been partially removed.
- 4) Apply to all occupants. Federal standards do allow for two exceptions to the "all occupant" requirement. The first exception permits open containers in a motor vehicle that is designed or used primarily for the transportation of persons for payment, meaning buses, taxis and limousines. The standards also permit open containers in the living quarter section of a house coach or house trailer.
- 5) Specify on a public highway or right-of-way of a public highway. The definition must include a roadway and the shoulder alongside of the roadway in order to meet the mandate.

- 6) Specify primary enforcement. Under a primary enforcement law, officers must have the authority to enforce the law without the need to show that there was probable cause to believe that another violation had been committed. Secondary enforcement does not meet the Federal requirement.

Recommendation

The Louisiana Property and Casualty Insurance Commission recommends that Louisiana adopt an Open Container Law that complies with the Federal mandate in order to stop the transfer of highway improvement funds.

Safety Belt Usage

The current safety belt law requires each front seat occupant of a passenger car, van, or truck having a gross weight of ten thousand pounds or less, commonly referred to as a pickup truck, in this state shall have a safety belt properly fastened about his or her body at all times when the vehicle is in forward motion.

A major factor in Louisiana's traffic crash fatalities is not wearing a seat belt. A majority of these injuries and deaths are preventable. Seat belts are the most effective method of reducing deaths and serious injuries in traffic crashes. Louisiana's seat belt compliance rate was 68.6 percent in 2002, up only a percentage point from the previous year. This rate was based on visual surveys of 68,249 vehicles at 818 locations in the state. In 2002, the national seat belt compliance rate average was 75 percent. Of the 953 fatalities in Louisiana in 2001, 66 percent were not wearing seat belts at the time of the accident.

Safety Belt Use

Year	Safety Belt Usage 5 and Older	% of Drivers Killed not Wearing Safety Belt	% of Passengers, Ages 5 and Older, Killed not Wearing Safety Belt	% of All Occupants Killed not Wearing Safety Belt
1999	68%	63%	65%	64%
2000	68%	59%	64%	61%
2001	68%	56%	64%	58%

Source: Louisiana Highway Safety Commission

There are eighteen states, including Louisiana, that have primary seat belt laws and 30 states in which the law is secondary. New Hampshire has no law. Surveys have shown the average seat belt use rate in primary law states is 78 percent, while in states without primary laws; the average rate is 67 percent. States that mandate seat belt usage in all seats, with some age exceptions, are: Alaska, California, Maine, Massachusetts, Montana, Nevada, New Mexico, Oregon, Rhode Island, Utah, Vermont, Washington, Wyoming and the District of Columbia. The seat belt law in Illinois covers all occupants in all seats if the driver is less than 18 years of age.

The wearing of seat belts has made a significant difference in the reduction of deaths from traffic crashes. The risk in not wearing a seat belt in the front seat of a vehicle is now widely understood. However, the risk to the back seat passengers is less well known, but the fact remains that seat belts are equally as effective in the back of the vehicle as in the front of the vehicle. The back seat has the highest level of safety and the most protection, but only if passengers are wearing a lap and shoulder belt.

In a crash at 55 mph, an adult back seat passenger is thrown forward with the force of 3,000 pounds, equal to the weight of an elephant. Without a seat belt, this could result not only in serious injury or death to the passenger, but also to others in the front and back of the vehicle.

The costs go beyond loss of lives, resulting in higher taxes, health care costs, and insurance costs. According to the American College of Emergency Physicians, on the average, hospital costs for an unbelted crash victim are 55 percent higher than for a belted crash victim. Every American pays about \$580 a year toward the cost of crashes.

Recommendation

The Louisiana Property and Casualty Insurance Commission recommends that Louisiana require seat belt usage for all passengers.

Living in Louisiana
The Homeowner Insurance Market



The Homeowners Insurance Market In Louisiana



Louisiana was ranked 2nd highest in the nation for having an average homeowners premium of \$714, compared to the national average of \$487, according to the NAIC. There are two main reasons why Louisiana was ranked so poorly and those are location and lack of competition.

We cannot change Louisiana's location, but we can change the way we do business in the state. The fact that the number of homeowners insurance companies serving Louisiana has steadily declined since 1992 is of great concern to the Property and Casualty Insurance Commission.

In 1990, there were 150 companies writing homeowners insurance in our state. By 2000, the number had dropped to 85, with the premium dollar nearly doubling. Today, there are approximately 67 companies doing business in Louisiana, but not all of these companies are "actively writing." By saying that some of the companies are not "actively writing," it is meant that not all of the companies are writing new business.

Number of Homeowners Insurance Companies Writing In Louisiana 1990-2001

Calendar Year	Number of Companies	Written Premiums
1990	148	\$350,076,569
1991	132	\$364,312,780
1992	115	\$406,888,265
1993	107	\$438,370,214
1994	100	\$471,682,277
1995	98	\$505,288,002
1996	92	\$522,254,978
1997	88	\$544,587,985
1998	91	\$577,509,132
1999	85	\$583,522,661
2000	85	\$632,790,305
2001	84	\$677,827,833

How Louisiana's Homeowners Insurance Premiums Measure Up

STATE	Average Premium	RANK
Texas	\$861	1
Louisiana	\$714	2
Florida	\$657	3
Dist. Of Columbia	\$617	4
Hawaii	\$606	5
Alaska	\$601	6
Mississippi	\$594	7
Oklahoma	\$594	8
California	\$578	9
Kansas	\$576	10
Colorado	\$559	11
Connecticut	\$546	12
New York	\$533	13
Massachusetts	\$526	14
Rhode Island	\$520	15
South Carolina	\$505	16
Arkansas	\$501	17
New Jersey	\$497	18
Wyoming	\$491	19
Nevada	\$474	20
Tennessee	\$474	21
Nebraska	\$467	22
Alabama	\$457	23

New Mexico	\$451	24
Georgia	\$448	25
Missouri	\$441	26
Montana	\$429	27
North Carolina	\$427	28
Arizona	\$418	29
Michigan	\$417	30
Vermont	\$414	31
Washington	\$413	32
New Hampshire	\$410	33
North Dakota	\$403	34
Pennsylvania	\$403	35
Kentucky	\$394	36
Minnesota	\$390	37
West Virginia	\$388	38
Illinois	\$387	39
South Dakota	\$378	40
Indiana	\$373	41
Maryland	\$372	42
Utah	\$369	43
Iowa	\$347	44
Virginia	\$345	45
Maine	\$336	46
Oregon	\$334	47
Idaho	\$319	48
Delaware	\$317	49
Ohio	\$314	50
Wisconsin	\$266	51
Countrywide	\$487	

Source: National Association of Insurance Commissioners

The fact that there are fewer insurers writing homeowners insurance business in Louisiana makes a dramatic difference on the amount of money that homeowners spend on insurance. Because of this very fact, the Louisiana Property and Casualty Insurance Commission went to great lengths this past year to find out why so many insurance companies have left our state.

Homeowners Insurance Survey

In May of 2002, the commission surveyed every company that has written homeowners business in Louisiana in the past ten years. The survey asked companies to anonymously identify some of the problems with doing business in Louisiana. The companies that have left Louisiana were asked why they were no longer doing business here, and the companies currently writing business were asked to identify some of the problem areas in the state.

Of the fifty-eight companies that responded to the survey, thirty-five said that they had problems with our current rating system. Thirteen companies said that they would like for Louisiana to start using a prior approval process. Nineteen companies said that if these changes were made, they would consider doing business in Louisiana again.

Other problems included hurricane deductibles and the size of the FAIR Plan.

Directive 170

In September of 2002, Directive 170 was issued by the Louisiana Department of Insurance on behalf of the Louisiana Property and Casualty Insurance Commission. This directive asked for the industry's comments on the problems in our state again, only this time they were asked to be as forthright and specific as possible in their assessment.

The problem area that stood out the most was Louisiana's current rating system. Some companies proposed that we eliminate the Louisiana Insurance Rating Commission all together, while others proposed a Flex Band System. Above all, companies want a more modernized regulatory system for our state. They consider our current system to be "archaic" and time consuming.



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September 4, 2002

DIRECTIVE 170

PROPERTY AND CASUALTY INSURANCE
COMPANY INFORMATION REQUEST

TO: ALL PROPERTY AND CASUALTY INSURERS

Within the last year, the property and casualty insurance market has hardened nationwide, with Louisiana being no exception to this trend. The state of Louisiana is in, what some are calling, a crisis in the homeowners insurance market. A number of homeowners insurance companies are no longer accepting new business or withdrawing from the state all together due to their assessment of our loss potential. We are seeing a similar trend beginning to occur in the automobile insurance market.

We recognize the fact that a more competitive environment fosters lower insurance rates. For example, since 1990 the number of insurers writing homeowners business in Louisiana has gone from 148 companies to approximately 88 companies today, while in south Louisiana the number decreased from approximately 65 to 14 presently writing. These numbers are somewhat deceiving in that not all of the companies are actively writing or, in other words, writing new business. Due to this fact, the Louisiana Property and Casualty Insurance Commission surveyed the 221 companies that have had a book of business in Louisiana since 1990 asking them if they are currently writing new business. Of the companies surveyed, only 58 responded and of the 58, only 20 said they were currently writing new business. Therefore, we must attract new insurance companies to this state, while retaining the current insurers.


Along with the Louisiana Property and Casualty Insurance Commission, I am requesting your assistance in the solution process by issuing this directive. I need your company to give us its recommendations for changes that need to be made in the following areas: regulation, legislation, and departmental operations. In the interest of open and fair communication with the insurance industry, this directive allows companies to be frank in their assessments of regulatory and legislative related problems plaguing Louisiana. Actions taken on these recommendations could help Louisiana become a more attractive marketplace for its consumers, potential insurers and existing insurers.

Please note that your company will not be jeopardizing its relationship with the Louisiana Department of Insurance by making such recommendations. Also, your comments will remain confidential and your company's name will be anonymous. I ask that you be as direct and specific as possible with suggestions in order to ensure that there is no room for miscommunication or misinterpretation.

If you should have any questions, please feel free to contact Ms. Molly M. Quirk at mquirk@ldi.state.la.us or by calling 225-342-7187. Please submit all recommendations in whatever form you deem appropriate by October 31, 2002 to:

**Louisiana Department of Insurance
Attn: Property and Casualty Insurance Commission
8th Floor
P.O. Box 94214
Baton Rouge, Louisiana 70804**

By:



J. Robert Wooley
Acting Commissioner of Insurance

Flex Band System

How does a Flex Band System work? A Flex Band System allows companies to raise or lower its rates within a certain percentage, without having to come before the Louisiana Insurance Rating Commission for approval. The company would simply file its new rate with the Department of Insurance 30 days prior to that rate taking effect and would notify its insureds within that same 30 days. When the new rate is filed, the company must certify to the Department of Insurance that the new rate is actuarially justified. The company would then be able to apply the new rate after the 30-day waiting period. Any rate increase or decrease that exceeds the set rate would have to be presented to the Louisiana Insurance Rating Commission for approval. South Carolina allows for a 7% increase or decrease by companies.

When South Carolina adopted such a system, the state nearly doubled the number of companies writing in their state. This type of system also decreased the residual market to nearly zero, and made prices more competitive for consumers. In the beginning, South Carolina did see rates increase quite a bit, but they are leveling off and more companies are pouring into the state.

Recommendation

After carefully studying different types of rating systems, the commission recommends that Louisiana adopt a Flex Band System.

Non-renewal and Cancellation Policy

A chief complaint by some of the companies that write homeowners insurance in Louisiana is that business taken by a company, even bad business, is very difficult to remove from the books. Companies find it very hard to manage their books of business because Louisiana's non-renewal and cancellation laws are very strict. They also find it very difficult to increase deductibles on individuals with higher claim frequency, which they say would alter claiming and personal behavior and, in some cases, would deter fraudulent claims.

Recommendation

The commission recommends that the following changes be made to Title 22, which is the Louisiana Insurance Code.

- 22:636.2 (D) – Delete the portion that reads “or to increase the policy deductible.”
- 22:636.2(D) – Increase the amount of time from three years to five years.
- 22:1471 – Delete the portion that reads, “or increase the amount of the premium, except upon an area-wide rating basis at the beginning of a new policy period, on...”
- 22:1471 – Add the following after the “Act of God” clause: “No insurer shall increase the amount of premium, except on an area-wide rating basis at the beginning of a new policy on a homeowner’s policy of insurance, based solely upon a loss caused by an ‘Act of God’ unless the insured has incurred three ‘Acts of God’ in a three year period.”

Florida Citizens Property Insurance Corporation

Since Hurricane Andrew in 1992, the number of insurance companies writing homeowners insurance has decreased from well over 100 to less than 20 actively writing. Less than 10 insurers will write a new homeowners policy in Louisiana today, and they are very selective.

Homeowners who can't find coverage must buy a policy from the residual market, Coastal and FAIR Plans. The total insured values in these markets of last resort have grown from approximately \$400 million in 1992 to well over \$7 billion in 2002. When catastrophes such as hurricane or hail hit Louisiana, and these plans have losses, which exceed premiums, insurance companies doing business in Louisiana are forced to pay the deficits, in addition to their own catastrophe losses on the policies they write in our State.

As insurers leave the state, this homeowners residual market burden becomes significantly greater on those that remain. This creates an enormous incentive for insurers to leave Louisiana, and a disincentive to stay. Similar market conditions lead to the Workers' Compensation crisis in the late 1980's.

The problem is even worse for homeowners insurance because of the significant catastrophe exposure.

Florida faced this same problem, and in 2002 the Florida Legislature developed a creative solution...the Citizens Property Insurance Corporation of Florida. Following are some of the highlights of the Florida plan.

1. A new corporation is created, which is controlled by a Board of Directors appointed by the State for a State Purpose which qualifies Citizens to build catastrophe loss reserves from any excess premiums on a tax qualified basis.
 - A. Florida has received a private letter ruling from the IRS establishing their tax-exempt status.
 - B. Tax-free catastrophe reserve buildup increases reserves 30%-40%.
2. Bonding capacity is established to fund catastrophe losses in excess of catastrophe reserves.
 - A. Bonding authority is established to issue bonds to raise cash for claims.
 - B. Bonding capacity is established based upon statutory assessment of insurers.
3. Statutory authority to assess all residual property insurers funds bonding capacity.
 - A. Statute requires insurers to pay pro rata assessment based upon voluntary market share.
 - B. Bonds are repaid over time to reduce annual insurer assessment.
4. Insurers have statutory authority to file actuarially justified premium increases with the Department of Insurance (DOI) to recover assessments over the term of the bonds to spread the catastrophe over the entire insurance market, remove the disincentive for insurers to write voluntary homeowners business, and maintain market viability.
 - A. Insurers file calculations for premium adjustments with DOI.
 - B. DOI disapproves rate increases, which are not actuarially justified.
 - C. Rate adjustment is removed when bonds are paid and assessments cease.

Recommendation

At this time, the Louisiana Property and Casualty Insurance Commission cannot recommend the adoption of a plan similar to the Citizens Property Insurance Corporation of Florida for Louisiana. The Commission believes that Louisiana should monitor and study this plan to decide whether this plan would be appropriate for our state.

The Louisiana Property and Casualty Insurance Commission does, however, recommend that insurers be given more time to pay their assessments to the FAIR Plan when catastrophes strike.

Working in Louisiana

The Workers' Compensation Market



The Workers' Compensation Market In Louisiana



Louisiana's workers' compensation market is more stable than other property and casualty insurance markets in the state. Currently, Louisiana's loss costs are higher compared to other states in the South, except Alabama, which is slightly higher than Louisiana. According to the National Council on Compensation Insurance, Inc. (NCCI), Louisiana had an overall rate increase of 1.3% in 2001, which is very low. The workers' compensation system in Louisiana has not always been stable or successful.

Through the 1980's and into the 1990's, Louisiana companies experienced a 477% rate increase for workers' compensation insurance. According to Louisiana Workers' Compensation Corporation (LWCC), more than 70% of the companies who offered compensation insurance during this time needlessly fell into the assigned risk pool.

In 1991, the Louisiana Legislature passed a constitutional amendment that led to the creation of LWCC. LWCC is a private, nonprofit, mutual insurance company, which was created to save Louisiana's unsuccessful and failing workers' compensation system. This legislation gave LWCC Louisiana's full faith and credit guarantee. By 1993, LWCC had an estimated annual premium of \$246 million, with their policy count reaching 30,000. In May of 2000, the United States Department of Labor approved LWCC to write federal coverage without the state of Louisiana's full faith and credit guarantee. Due to the creation of LWCC, the workers' compensation system in Louisiana was saved from total collapse and has been given stability.

There is one main reason why Louisiana's loss costs are high, and that is claims costs. Since 1994, the frequency of compensation claims has been declining steadily, but the claims costs are rising. The reason for the increase in claims costs is the rise of medical costs and indemnity costs. Medical treatment is more costly today than it was in the early 1990's and people are making more money and have larger salaries than they did in the 1990's.

When it comes to the workers' compensation market in Louisiana, there is good news and bad news. The bad news is that our loss costs are higher than most states in the South and that we saw a rate increase of 1.3% in 2001. The good news is that claim frequency is declining and that most of our loss costs are due to increased employee salaries.

Recommendations

Due to the stability of the workers' compensation market in Louisiana, the Property and Casualty Insurance Commission does not have any legislative recommendations at this time.

Louisiana Average Loss Costs Are High When Compared With Those in Other States in the Region-

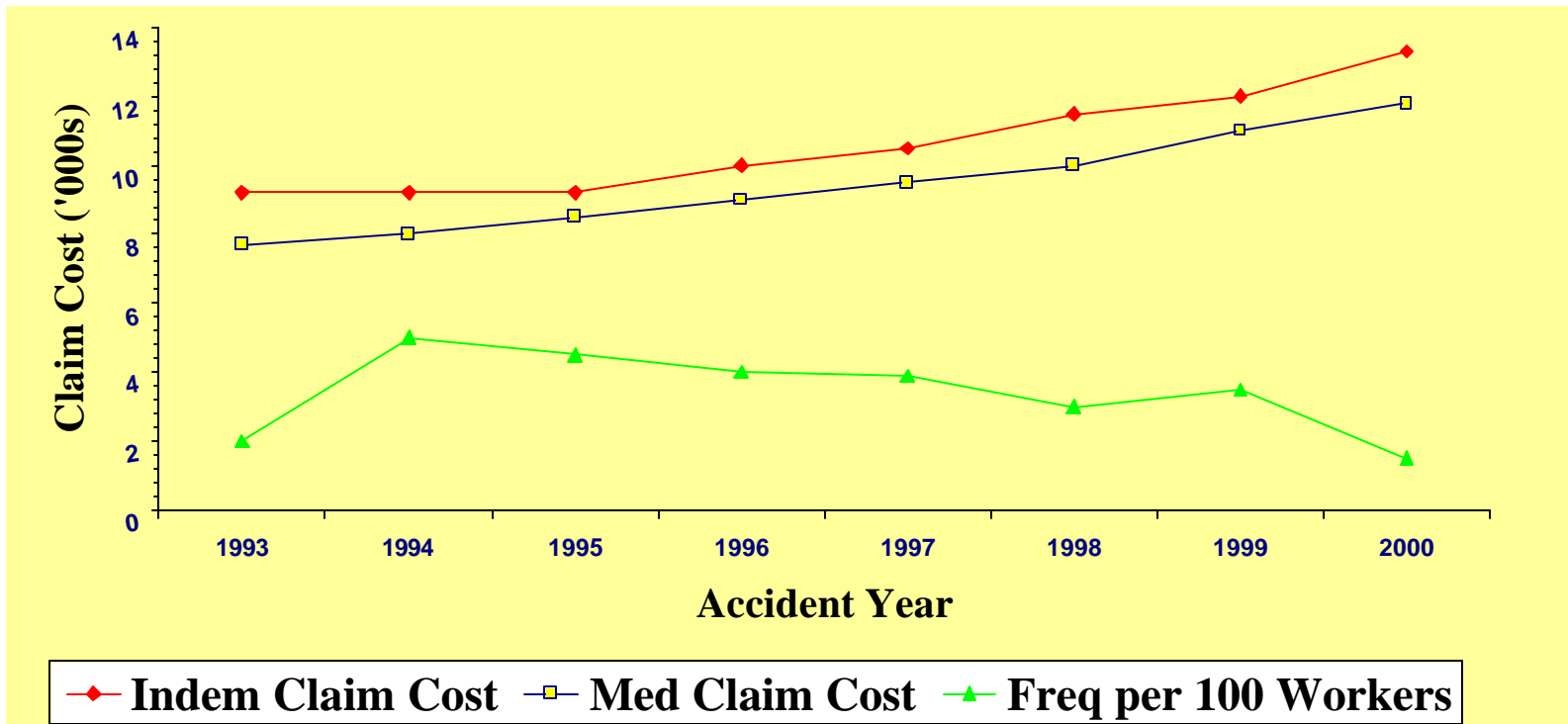
Current Average Voluntary Pure Loss Costs Using
State-Specific Payroll Distribution

<i>State</i>	<i>All Classes</i>	<i>Manuf.</i>	<i>Contracting</i>	<i>Office/Clerical</i>	<i>Goods/Services</i>	<i>Misc.</i>
<i>Alabama</i>	2.50	3.61	9.22	0.48	2.66	6.00
<i>Arkansas</i>	1.38	1.81	4.08	0.24	1.57	3.80
<i>Louisiana</i>	2.22	3.02	6.44	0.42	2.62	5.53
<i>Mississippi</i>	1.80	2.62	5.77	0.35	2.09	4.09
<i>Oklahoma</i>	1.95	3.59	6.51	0.43	2.69	3.72
<i>Region</i>	1.96	2.95	6.58	0.39	2.33	4.46
<i>Countrywide</i>	1.55	2.48	5.89	0.29	2.15	4.19

Source: 2001 NCCI

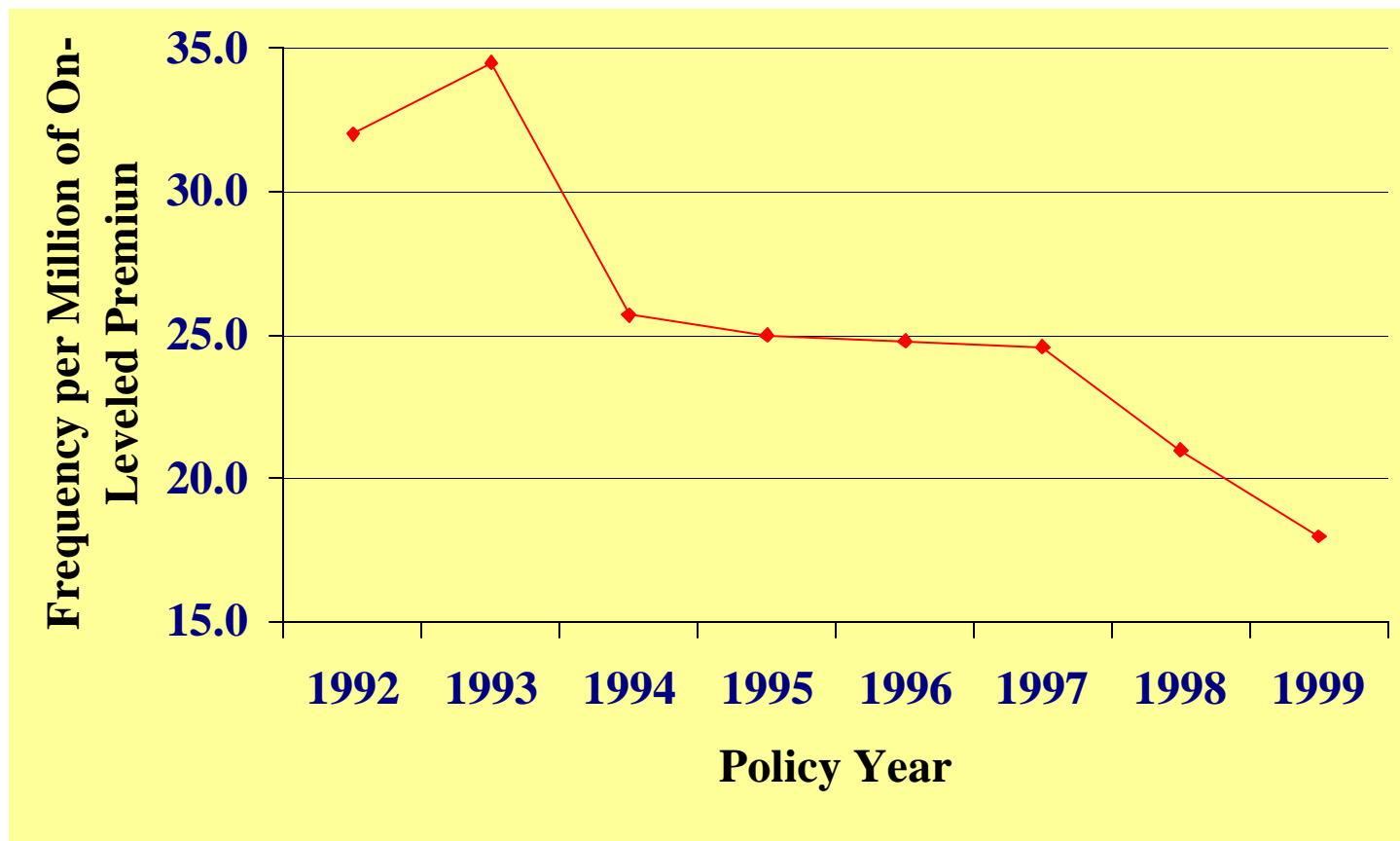
Texas information is not available.

While Claim Costs Are Rising Steadily, Frequency Continues Its Slight Decline



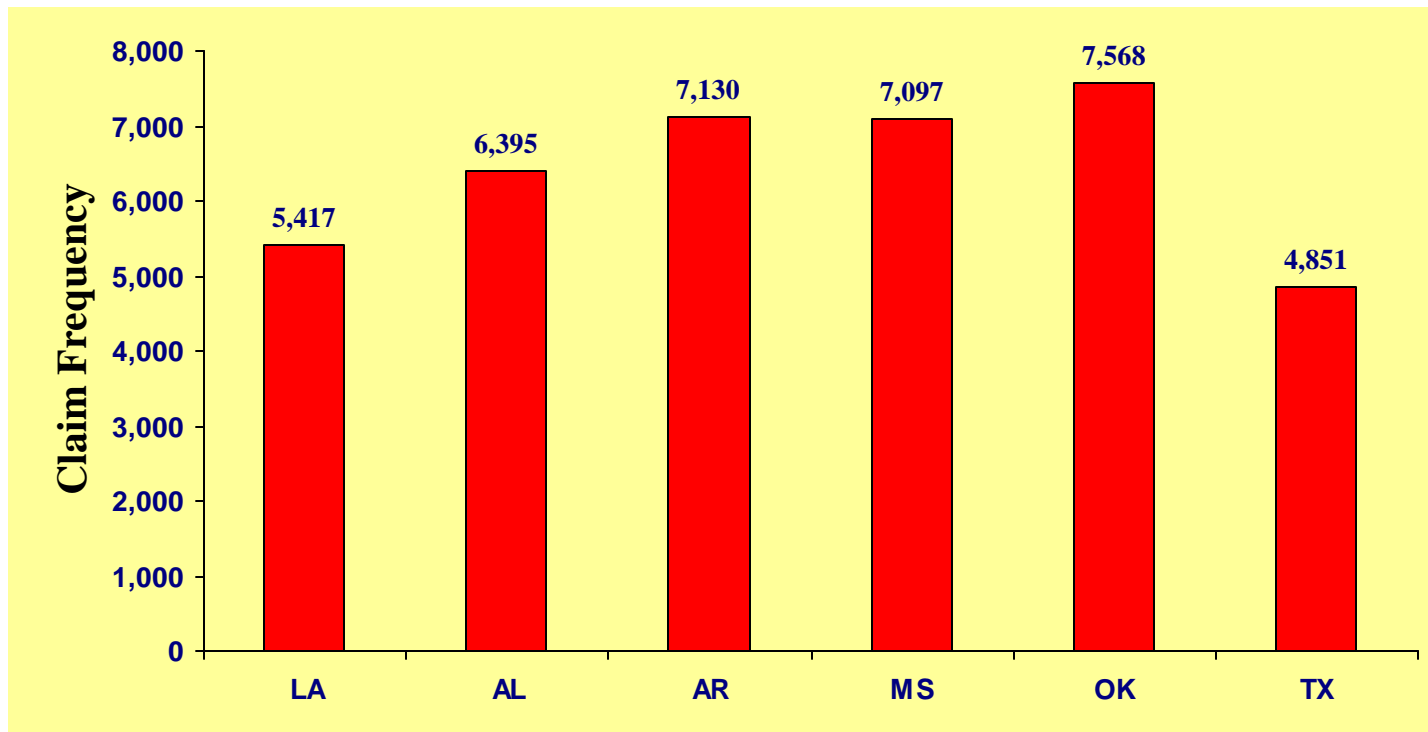
Source: National Council on Compensation Insurance, Inc.
Based on data through 12-31-00.
Average indemnity and medical cost per lost time claim.

Louisiana Claim Frequency Has Steadily Declined Since 1993



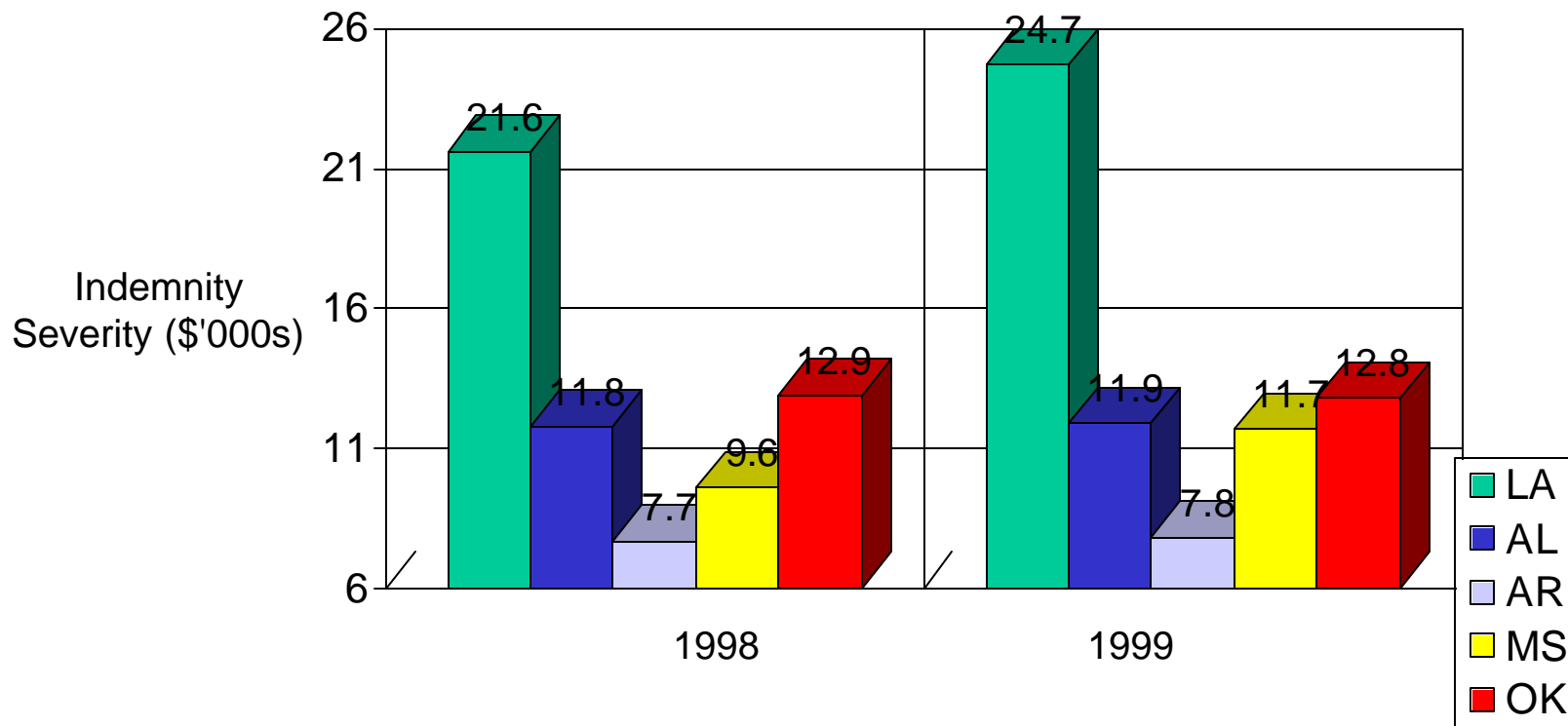
Source: National Council on Compensation Insurance, Inc.

**Louisiana's Average Claim Frequency
Is Low When Compared to
Other States in the Region**
Frequency per 100,000 workers



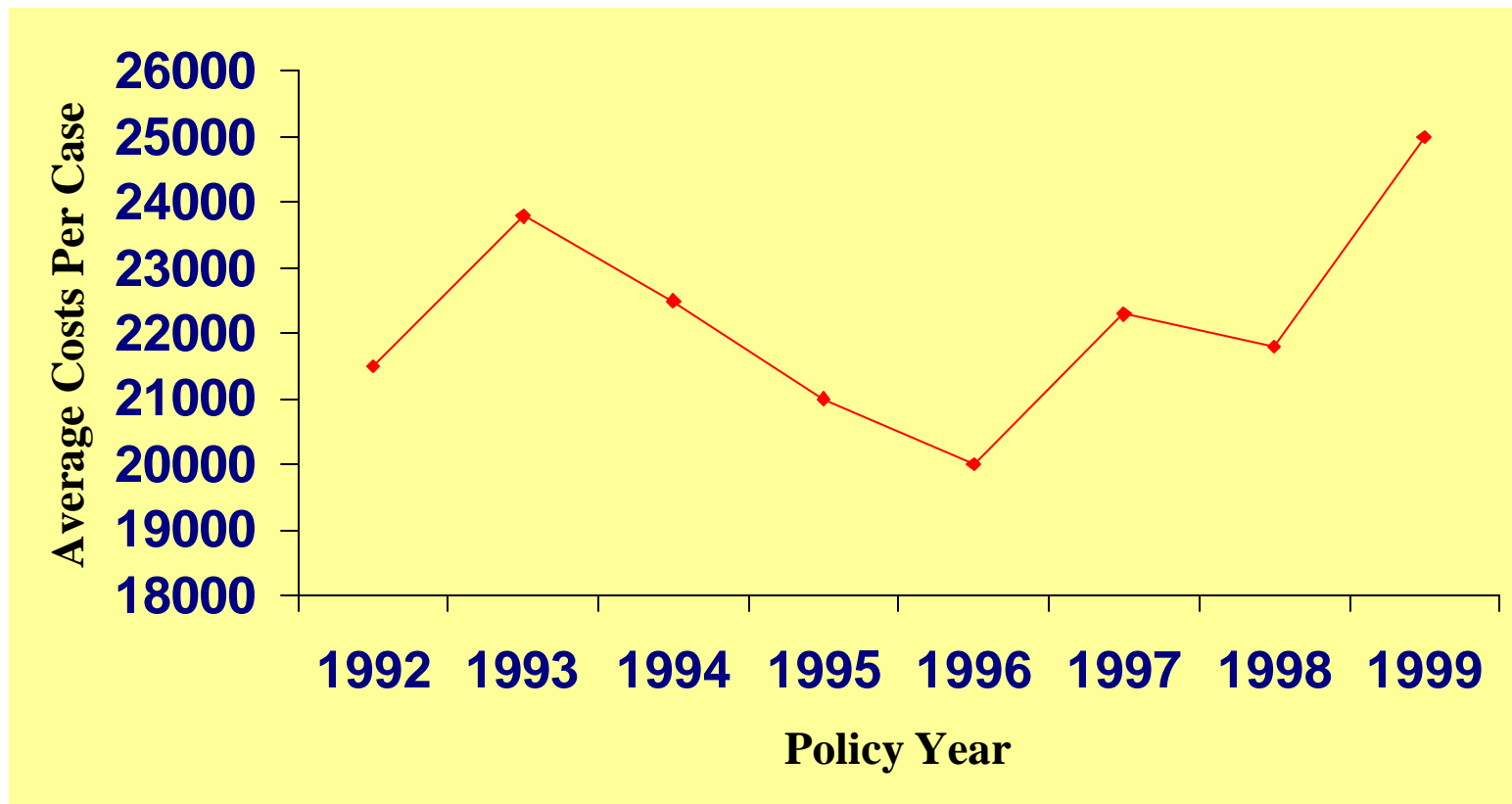
Source: National Council on Compensation Insurance, Inc

**Louisiana's Indemnity Average Claim
Severity Is Higher Than Those Found
in Neighboring States**



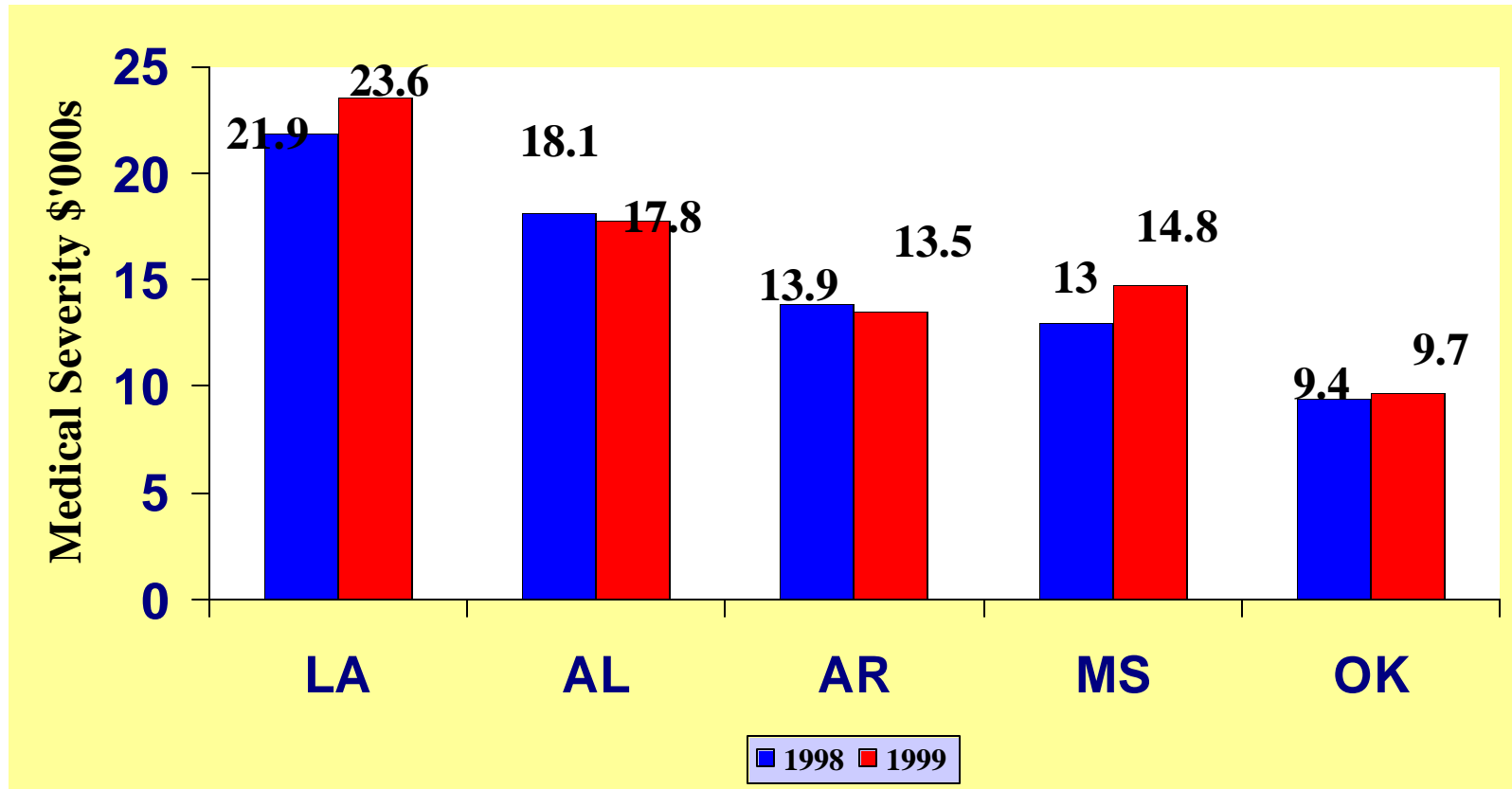
*Source: National Council on Compensation Insurance, Inc.
Texas information not available*

Louisiana's Indemnity Claims Costs Are Beginning To Rise



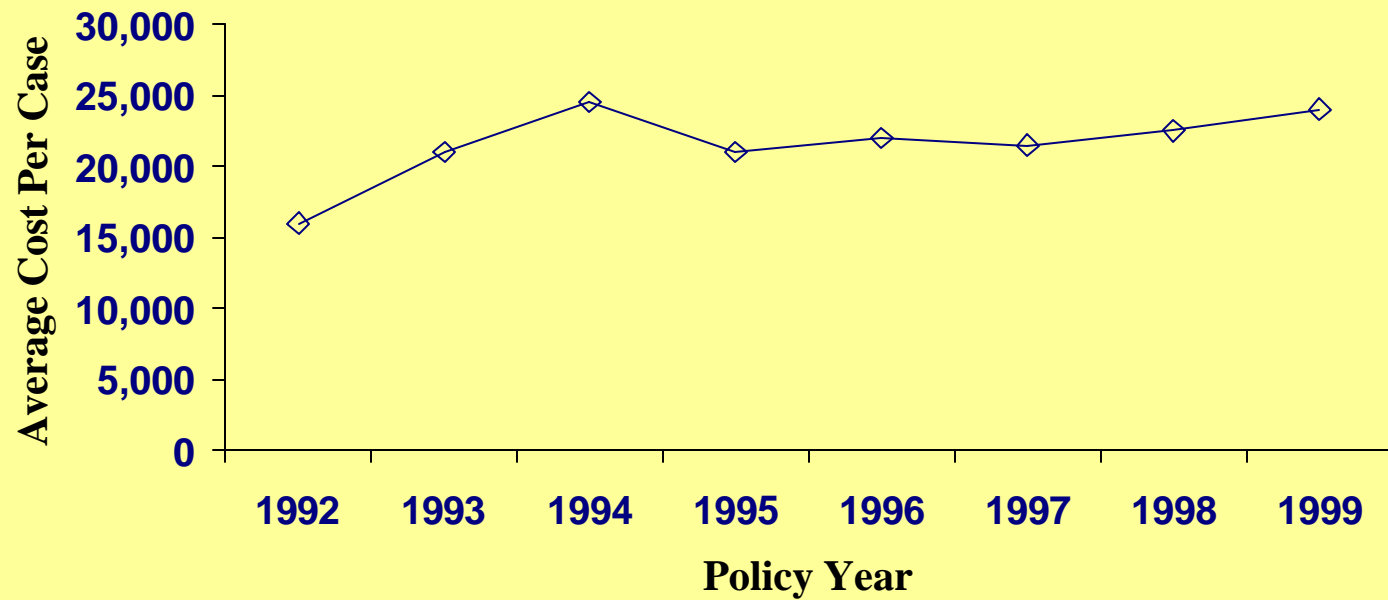
Source: National Council on Compensation Insurance, Inc.

Louisiana's Medical Average Claim Severity Is Higher Than Those Found In Neighboring States



Source: National Council on Compensation Insurance, Inc.
Texas information is not available.

Louisiana's Medical Claims Costs Are Also On The Rise



Source: National Council on Compensation Insurance, Inc